

alkylbenzyl or substituted alkylphenyl or alkylbenzyl group;

R<sup>4</sup> is a quaternizing group;

R<sup>5</sup> is a counterion to the quaternizing group; and

n is an integer from about 2 to 5,000.

#### Remarks

After amendment, claims 1-28, 30-36 and 38-58 are pending in the present application. Claims 1-2, 14, 30-32, 38-39, 41-44 and 48 have been amended. Claims 29 and 37 have been cancelled and reorganized (with near identical substance) as claims 57 and 58. Claims 30-32 are now dependent on claim 57 (instead of claim 29) and claims 38-39 and 41-44 are dependent on claim 58 (instead of claim 37). Note that claims 4 and 16, cancelled in the previously submitted (and unentered) amendment are not cancelled here. They are labelled as original claims, rather than reinstated claims, because the previously submitted amendment was not entered. Support for the amendments to the claims can be found through the original specification and claims and in particular, on page three of the specification at the end of paragraph 1, at pages 3-4 and including the discussion of fatty acids disclosed therein, page 7, second full paragraph, and on page 10. It is respectfully submitted that the instant amendment places the present application in condition for allowance. No new matter has been added by the presentation of this amendment.

The Examiner has rejected originally filed claims 1-5, 7-10, 13 and 29-47 variously under 35 U.S.C. §112, second paragraph and §102. For the reasons which are set forth below, Applicants respectfully submit that the present application is in condition for allowance.

#### **The §112, Second Paragraph Rejection**

The Examiner rejected originally filed claims 2, 29 and 37 for the reasons which are set forth in the office action on page. In order to address this rejection, Applicants have

amended claim 2 and replaced claims 29 and 37 with new claims 57 and 58, respectively. It is respectfully submitted that with the amendment to claim 2 and the substitution of new claims 57 and 58 for claims 29 and 37, to reorganize the originally filed subject matter in those original claims, Applicants have addressed the Examiner's §112, second paragraph rejection. It is now respectfully submitted that the claims are in compliance with 35 U.S.C. §112.

### **The §102 Rejection**

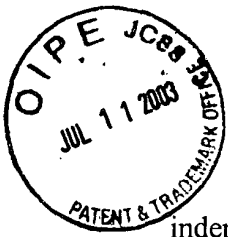
The Examiner has rejected claims 1, 3-5, 7-10 and 13 under 35 U.S.C. §102(b) as being anticipated by Werner. In particular, the Examiner cites the Example for release agent II in column 13 of Werner, which the Examiner contends Werner reacts with diisocyanate (column 3, lines 11-30) to form the present compositions. The Examiner also cites the disclosure of ricinoleic acid in claim 4 and triethanolamine in claim 11 as further evidence of anticipation. Further, the Examiner cites Werner as disclosing isophorone diisocyanate in column 3 at line 22. From this evidence, the Examiner contends the present invention is anticipated. Applicants respectfully traverse the Examiner's amendment.

The present invention (as set forth in claim 1) is directed to a polymeric composition for use in personal care products which is obtained from the reaction of a trialkanolamine with a C<sub>2</sub> to C<sub>25</sub> acid optionally having at least one free hydroxyl group or a triglyceride comprising C<sub>10</sub> to C<sub>25</sub> fatty acids optionally having at least one free hydroxyl group under conditions to produce a mono-, di- or trialkanolamine fatty acid ester, which is subsequently reacted with a diisocyanate compound to form a polymeric composition as claimed. The obtained polymeric composition, a polyurethane trialkanolamine fatty acid ester, may be safely incorporated into personal care products.

Werner cannot cogently be cited as anticipating the present invention. The invention of Werner is characterized in column 2, lines 14-42 as being directed to the use of internal release agents for injection molding applications with improved mold release characteristics. Although Werner does disclose certain fatty ester amides which may be obtained from the

reaction product of an alkanolamine with a fatty acid, these fatty acid esters are not incorporated into polyurethane compounds which can even arguably be said to be the polymeric compositions according to the present invention which are found to be useful when incorporated into personal care products. Indeed, Werner describes a number of reactants which are included in final polymeric compositions which are completely incompatible with personal care products, but which are favored for use in producing injection molded polyurethanes. Indeed, a review of the components of the Werner final composition shows that in addition to diisocyanate, further reactants include diamines, diazo compounds, ethylene oxide and other monomeric components which are inconsistent and incompatible with producing a personal care product. It is noted that nowhere is there disclosure or a suggestion that Werner produces personal care product polymeric polyurethanes. Indeed, in contrast to the present invention wherein the reaction product of the trialkanolamine and fatty acid is a major component of the final composition, the release agents of Werner (which are further polymerized with diisocyanate, in addition to numerous other polyurethane forming monomers) represent only a minor component of the final polymerization product. Moreover, the final polymeric products of Werner are injection molded polyurethane compositions, completely incompatible for use in personal care products and which are made from monomers some of which are completely incompatible with personal care products. Based upon the foregoing discussion and the clear distinction between compositions according to the present invention which are used in personal care products and the compositions of Werner which are injection molded polyurethanes, it cannot be said that Werner anticipates the present invention.

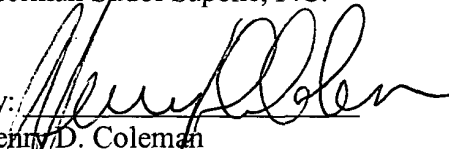
For the above reasons, Applicants respectfully assert that the claims set forth in the amendment to the application of the present invention are now in compliance with 35 U.S.C. Applicants respectfully submit that the present application is now in condition for allowance and such action is earnestly solicited.



Applicants have cancelled 2 claims (both independent) and added 2 claims (both independent). No fee is therefore due for the presentation of this amendment. Please charge any fee due to Deposit Account No. 04-0838.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: "Assistant Commissioner for Patents" on July 8, 2003.

  
Henry D. Coleman